IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.637 OF 2004

Dnyanoba Vishnu Sawant and ors. ... Petitioners

v/s

M/s Sitaram Mills and anr. ... Respondents

Mr S.N. Deshpande for Petitioners.

None for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 20TH JUNE 2006.

P.C. :-

1. By this petition, the petitioners challenge the order passed by the Appellate Authority under the Payment of Gratuity Act 1972 holding that the application filed by the petitioners under section 7 of the said Act was barred by the law of limitation. The Appellate Authority has held that rule 19(1)(iii) of the Rules framed by the Central Government under the Payment of Gratuity Act 1972 lays down the period of limitation. According to the Appellate Authority, in terms of rule 1991(iii), the application is required to be made within a period of 90 days from the accrual of the cause of action. The Appellate Authority has also relied on a Division Bench of this Court holding that the Payment of Gratuity Act 1972 lays down a period of limitation for making an application under section 4. There is no ground in the petition either that rule (19)(1)(iii) is nonexistent or that the Court wrongly relied on the provisions of rule 19(1)(iii). At the hearing, the learned counsel appearing for petitioners is not in a position to point out the provisions of rule 19(1)(iii). He is also not in a position to point out to me that the observations made by the Appellate Authority in the order in relation to the Division Bench judgment of this

Court are wrong. The learned counsel is not even aware of the judgment of the Division Bench. The learned counsel relies on a judgment of learned Single Judge of this Court in the case of H. Jayarama Shetty v/s Sangli Bank Ltd., reported in 2005 II CLR 267 to contend that there is no period of limitation laid down for making an application under section 7. Perusal of that judgment shows that in that case, the Court has not considered the provisions of rule 19(1)(iii) which have been relied on by the Appellate Authority. In my opinion, the facts of the present case and the facts of that case are clearly distinguishable. In the present case, the applications were made after nine years, twelve years and thirteen years of the cause of action having accrued to the applicants. Taking overall view of the matter therefore, there is no substance in the petition. It fails and is dismissed. Rule is discharged with no order as to costs.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.